In the High Court of Judicature for Rajasthan
At
Jaipur Bench, Jaipur

O R D E R

In

S.B. Criminal Revision Petition No.1216/2007
Smt. Dhanori Vs. State of Rajasthan

Date Of Order :: 30.11.2007

P R E S E N T
Hon'ble Mr. Justice Jitendra Ray Goyal

Mr. D.G. Chaturvedi with
Mr. Mukesh Sharma, for petitioner.
Mr. S.N. Gupta, Public Prosecutor for State.

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By the Court :-

This revision petition under section 397 read with 401 of the Code of Criminal Procedure has been filed by accused petitioner Smt. Dhanori against the order dated 30/8/2007 passed by Additional Sessions Judge No.2, Bayana, District Bharatpur whereby charges for the offences under sections 304-B, 498-A & 406 IPC were framed and thereafter application for amendment of the charge, filed by the accused persons was rejected vide order

dated 4/10/2007.

2. In brief, the prosecution case is that deceased Shailendri, daughter of the complainant Pooran Meena, was married with Ashok Kumar, son of the accused petitioner and handsome dowry was given at the time of marriage but Ashok Kumar and his other relatives were not satisfied with the dowry and started demanding ten lakhs rupees and on account of that demand deceased Shailendri was ill-treated. She gave birth to a female child and on the occasion of 'kua pujan', Ajit Kumar and Rajesh Kumar, brother and relative of the deceased, came at her in-laws house with certain gift articles but at that time also they were misbehaved and the demand of money was repeated. Thereafter on 28/1/2007 father and other relatives of the deceased received the information about the death of Shailendri. After investigation police filed the charge-sheet for the offences under sections 498-A, 304-B and 406 IPC.

3. Heard learned counsel appearing for accused petitioner as well Public Prosecutor for the

State and perused the material placed during the course of arguments.

4. It was inter alia contended that prima facie there is no evidence that deceased was subjected to cruelty or harassment for or in connection with any demand of dowry soon before her death, therefore the charge for the offence under section 304-B IPC ought not to have been framed. In support of the contentions, reliance was placed on **Bhagwan Sahai Vs. Raju @ Rajendra Kumar and others**, reported in **RLW 1996(2) Raj. Page 298**, **Sarveshwar Singh Vs. State and others**, reported in **1999 CRI.L.J. 2179**, **Kodam Gangaram and others Vs. State of Andh. Pra.**, reported in **1999 CRI.L.J. 2181** and **Vishwa Kumar Sharma Vs. State of Rajasthan**, reported in **2006(2) R.C.C. 701** wherein mainly it was held that for constituting an offence under section 304-B IPC all the ingredients thereof are required and if any of the ingredient is missing or there is no evidence that deceased was subjected to cruelty or harassment in connection of demand of dowry soon before her

death, then the offence cannot be said to be made out under section 304-B IPC.

5. Per contra, learned Public Prosecutor contended that deceased Shailendri died in suspicious circumstances at her in-laws house by hanging within a period of seven years of her marriage. It was also contended that it has also come in the investigation that seven days prior to this fateful incident i.e. on 21/1/2007 when the brothers of the deceased came at her in-laws house on account of 'kua pujan' on account of birth of a female child of Shailendri, they were ill-treated due to non-fulfillment of demand of money and at that time similar complaint was made by Shailendri to them, therefore, the prosecution has successfully collected the evidence in regard to demand of dowry, harassment and ill-treatment with the deceased soon before her death and in these circumstances, presumption under section 113-B of the Evidence Act is also available and the trial court has rightly framed the charge for the offence under section 304-B IPC.

6. I have considered the rival submissions made at the bar. It is settled proposition of law that at the time of framing of the charge, trial court need not to minutely evaluate the evidence and the material but only to see whether the First Information Report and other material disclose prima facie implicity of the accused in that offence. In the instant case, it is not disputed that within seven years of the marriage, deceased Shailendri died in abnormal circumstances at her in-laws house on 28/1/2007. The trial court on the basis of the material available on the record prima facie found that after her marriage, deceased Shailendri was subjected to cruelty and harassment on account of demand of dowry and on 21/1/2007, just prior to seven days of her unnatural death, on the occasion of 'kua pujan' her brothers were misbehaved on account of non-fulfillment of demand of dowry and she also made similar complaint to them. So far harassment 'soon before her death' is concerned, no time can be fixed since it is a

relative term and it would depend upon the circumstances of each case and no straitjacket formula can be laid down as also held by the Apex Court in **Kamesh Panjiyar alias Kamlesh Panjiyar Vs. State of Bihar**, reported in **2005 Supreme Court Cases (Cri) 511**. Therefore, at this stage it cannot be inferred that there was no proximity in the unnatural death of the deceased and alleged act of harassment and cruelty with the deceased on account of demand of dowry. Any conclusion can be arrived at by the trial court after recording the evidence. I do not find any perversity or illegality in the impugned order.

7. Consequently, this revision petition is hereby dismissed.

(J.R. Goyal),J.

VS Shekhawat/-
Jr.P.A.